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Case No.: 2:18-cv-03249-JFW (SSx)

[Discovery Document: Referred to
Magistrate Judge Suzanne H. Segal]

**ORDER RE: STIPULATED
PROTECTIVE ORDER**

CITY OF PASADENA, CITY OF
PASADENA POLICE OFFICERS
DOES 1-10; CITY OF GLENDALE,
CITY OF GLENDALE POLICE
OFFICERS DOES 11-20;
CALIFORNIA DEPARTMENT OF
CORRECTIONS OFFICERS, DOES
21-23, Inclusive,

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, in reviewing the Parties' Stipulation for Protective Order, the Court hereby orders as follows:

- 1 -

1 Discovery in this action is likely to involve production of
2 confidential, proprietary, or private information for which special protection
3 from public disclosure and from use for any purpose other than prosecuting this
4 litigation may be warranted. The parties acknowledge that this Order does not
5 confer blanket protections on all disclosures or responses to discovery and
6 that the protection it affords from public disclosure and use extends only to the
7 limited information or items that are entitled to confidential treatment under the
8 applicable legal principles. The parties further acknowledge, as set forth in
9 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
10 file confidential information under seal; Civil Local Rule 79-5 sets forth the
11 procedures that must be followed and the standards that will be applied when a
12 party seeks permission from the court to file material under seal

13 **B. GOOD CAUSE STATEMENT**

14 In light of the nature of the claims and allegations in this case and the
15 parties' representations that discovery in this case will involve the production of
16 confidential records, police officer personnel files, undercover investigation
17 information, materials protected by the Official Information Privilege, and in order
18 to expedite the flow of information, to facilitate the prompt resolution of disputes
19 over confidentiality of discovery materials, to adequately protect information the
20 parties are entitled to keep confidential, to ensure that the parties are permitted
21 reasonable necessary uses of such material in connection with this action, to
22 address their handling of such material at the end of the litigation, and to serve the
23 ends of justice, a protective order for such information is justified in this matter.
24 The parties shall not designate any information/documents as confidential without
25 a good faith belief that such information/documents have been maintained in a
26 confidential, non-public manner, and that there is good cause or compelling reason
27 why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: The instant action: M.H. et. al. v. City of Pasadena, et al.
Case No. 2:18-CV-03249-JFW-SS

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action

1 and have appeared in this Action on behalf of that party or are affiliated with a law
2 firm which has appeared on behalf of that party, and includes support staff.

3 2.11 Party: any party to this Action, including all of its officers, directors,
4 employees, consultants, retained experts, House Counsel and Outside Counsel of
5 Record (and their support staffs).

6 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
7 Discovery Material in this Action.

8 2.13 Professional Vendors: persons or entities that provide litigation
9 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)
11 and their employees and subcontractors.

12 2.14 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 2.15 Receiving Party: a Party that receives Disclosure or Discovery
15 Material from a Producing Party.

16
17 3. SCOPE

18 The protections conferred by this Stipulation and Order cover not only
19 Protected Material (as defined above), but also (1) any information copied or
20 extracted from Protected Material; (2) all copies, excerpts, summaries, or
21 compilations of Protected Material; and (3) any deposition testimony,
22 conversations, or presentations by Parties or their Counsel that might reveal
23 Protected Material.

24 Any use of Protected Material at trial shall be governed by the orders of the
25 presiding judge. This Order does not govern the use of Protected Material at trial.

26
27 4. DURATION

28 Even after final disposition of this litigation, the confidentiality

obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection

1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic
5 documents, but excluding transcripts of depositions or other pretrial or trial
6 proceedings), that the Producing Party affix at a minimum, the legend
7 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
8 contains protected material. If only a portion or portions of the material on a page
9 qualifies for protection, the Producing Party also must clearly identify the
10 protected portion(s) (e.g., by making appropriate markings in the margins).

11 A Party or Non-Party that makes original documents available for inspection
12 need not designate them for protection until after the inspecting Party has indicated
13 which documents it would like copied and produced. During the inspection and
14 before the designation, all of the material made available for inspection shall be
15 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
16 documents it wants copied and produced, the Producing Party must determine
17 which documents, or portions thereof, qualify for protection under this Order.
18 Then, before producing the specified documents, the Producing Party must affix
19 the “CONFIDENTIAL legend” to each page that contains Protected Material. If
20 only a portion or portions of the material on a page qualifies for protection, the
21 Producing Party also must clearly identify the protected portion(s) (e.g., by making
22 appropriate markings in the margins).

23 (b) for testimony given in depositions that the Designating Party identify
24 the Disclosure or Discovery Material on the record, before the close of the
25 deposition all protected testimony.

26 (c) for information produced in some form other than documentary and
27 for any other tangible items, that the Producing Party affix in a prominent place on
28 the exterior of the container or containers in which the information is stored the

1 legend “CONFIDENTIAL.” If only a portion or portions of the information
2 warrants protection, the Producing Party, to the extent practicable, shall identify
3 the protected portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
5 failure to designate qualified information or items does not, standing alone, waive
6 the Designating Party’s right to secure protection under this Order for such
7 material. Upon timely correction of a designation, the Receiving Party must make
8 reasonable efforts to assure that the material is treated in accordance with the
9 provisions of this Order.

10 11 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

12 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
13 designation of confidentiality at any time that is consistent with the Court’s
14 Scheduling Order.

15 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
16 resolution process under Local Rule 37.1 et seq.

17 6.3 The burden of persuasion in any such challenge proceeding shall be
18 on the Designating Party: Frivolous challenges, and those made for an improper
19 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
20 parties) may expose the Challenging Party to sanctions. Unless the Designating
21 Party has waived or withdrawn the confidentiality designation, all parties shall
22 continue to afford the material in question the level of protection to which it is
23 entitled under the Producing Party’s designation until the Court rules on the
24 challenge.

25 26 7. ACCESS TO AND USE OF PROTECTED MATERIAL

27 7.1 Basic Principles. A Receiving Party may use Protected Material that is
28 disclosed or produced by another Party or by a Non-Party in connection with this

1 Action only for prosecuting, defending, or attempting to settle this Action. Such
2 Protected Material may be disclosed only to the categories of persons and under
3 the conditions described in this Order. When the Action has been terminated, a
4 Receiving Party must comply with the provisions of section 13 below (FINAL
5 DISPOSITION).

6 Protected Material must be stored and maintained by a Receiving Party at a
7 location and in a secure manner that ensures that access is limited to the persons
8 authorized under this Order.

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
10 otherwise ordered by the court or permitted in writing by the Designating Party, a
11 Receiving Party may disclose any information or item designated
12 “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
14 well as employees of said Outside Counsel of Record to whom it is reasonably
15 necessary to disclose the information for this Action;

16 (b) the officers, directors, and employees (including House Counsel) of
17 the Receiving Party to whom disclosure is reasonably necessary for this Action;

18 (c) Experts (as defined in this Order) of the Receiving Party to whom
19 disclosure is reasonably necessary for this Action and who have signed the
20 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (d) the court and its personnel;

22 (e) court reporters and their staff;

23 (f) professional jury or trial consultants, mock jurors, and Professional
24 Vendors to whom disclosure is reasonably necessary for this Action and who have
25 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

26 (g) the author or recipient of a document containing the information or a
27 custodian or other person who otherwise possessed or knew the information;

28 (h) during their depositions, witnesses, and attorneys for witnesses, in the

1 Action to whom disclosure is reasonably necessary provided: (1) the deposing
2 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)
3 they will not be permitted to keep any confidential information unless they sign the
4 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
5 agreed by the Designating Party or ordered by the court. Pages of transcribed
6 deposition testimony or exhibits to depositions that reveal Protected Material may
7 be separately bound by the court reporter and may not be disclosed to anyone
8 except as permitted under this Stipulated Protective Order; and

9 (i) any mediator or settlement officer, and their supporting personnel,
10 mutually agreed upon by any of the parties engaged in settlement discussions.
11

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
13 IN OTHER LITIGATION

14 If a Party is served with a subpoena or a court order issued in other litigation
15 that compels disclosure of any information or items designated in this Action as
16 CONFIDENTIAL,” that Party must:

17 (a) promptly notify in writing the Designating Party. Such notification
18 shall include a copy of the subpoena or court order;

19 (b) promptly notify in writing the party who caused the subpoena or order
20 to issue in the other litigation that some or all of the material covered by the
21 subpoena or order is subject to this Protective Order. Such notification shall
22 include a copy of this Stipulated Protective Order; and

23 (c) cooperate with respect to all reasonable procedures sought to be
24 pursued by the Designating Party whose Protected Material may be affected.

25 If the Designating Party timely seeks a protective order, the Party served
26 with the subpoena or court order shall not produce any information designated in
27 this action as “CONFIDENTIAL” before a determination by the court from which
28 the subpoena or order issued, unless the Party has obtained the Designating Party’s

1 permission. The Designating Party shall bear the burden and expense of seeking
2 protection in that court of its confidential material and nothing in these provisions
3 should be construed as authorizing or encouraging a Receiving Party in this Action
4 to disobey a lawful directive from another court.

5
6 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
7 PRODUCED IN THIS LITIGATION

8 (a) The terms of this Order are applicable to information produced by a
9 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
10 produced by Non-Parties in connection with this litigation is protected by the
11 remedies and relief provided by this Order. Nothing in these provisions should be
12 construed as prohibiting a Non-Party from seeking additional protections.

13 (b) In the event that a Party is required, by a valid discovery request, to
14 produce a Non-Party's confidential information in its possession, and the Party is
15 subject to an agreement with the Non-Party not to produce the Non-Party's
16 confidential information, then the Party shall:

17 (1) promptly notify in writing the Requesting Party and the Non-
18 Party that some or all of the information requested is subject to a confidentiality
19 agreement with a Non-Party;

20 (2) promptly provide the Non-Party with a copy of the Stipulated
21 Protective Order in this Action, the relevant discovery request(s), and a reasonably
22 specific description of the information requested; and

23 (3) make the information requested available for inspection by the
24 Non-Party, if requested.

25 (c) If the Non-Party represented by counsel fails to commence the process
26 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the
27 notice and accompanying information or fails contemporaneously to notify the
28 Receiving Party that it has done so, the Receiving Party may produce the Non-

1 Party's confidential information responsive to the discovery request. If an
2 unrepresented Non-Party fails to seek a protective order from this court within 14
3 days of receiving the notice and accompanying information, the Receiving Party
4 may produce the Non-Party's confidential information responsive to the discovery
5 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
6 not produce any information in its possession or control that is subject to the
7 confidentiality agreement with the Non-Party before a determination by the court.
8 Absent a court order to the contrary, the Non-Party shall bear the burden and
9 expense of seeking protection in this court of its Protected Material.

10
11 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

12 If a Receiving Party learns that, by inadvertence or otherwise, it has
13 disclosed Protected Material to any person or in any circumstance not authorized
14 under this Stipulated Protective Order, the Receiving Party must immediately (a)
15 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
16 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
17 the person or persons to whom unauthorized disclosures were made of all the terms
18 of this Order, and (d) request such person or persons to execute the
19 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit
20 A.

21 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
22 **PROTECTED MATERIAL**

23 When a Producing Party gives notice to Receiving Parties that certain
24 inadvertently produced material is subject to a claim of privilege or other
25 protection, the obligations of the Receiving Parties are those set forth in Federal
26 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
27 whatever procedure may be established in an e-discovery order that provides for
28 production without prior privilege review. Pursuant to Federal Rule of Evidence

1 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
2 of a communication or information covered by the attorney-client privilege or
3 work product protection, the parties may incorporate their agreement into this
4 Protective Order.

5 12. MISCELLANEOUS

6 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
7 person to seek its modification by the Court in the future.

8 12.2 Right to Assert Other Objections. No Party waives any right it
9 otherwise would have to object to disclosing or producing any information or item
0 on any ground not addressed in this Protective Order. Similarly, no Party waives
1 any right to object on any ground to use in evidence of any of the material covered
2 by this Protective Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any
4 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
5 orders of the assigned District Judge and Magistrate Judge. If a Party's request to
6 file Protected Material under seal is denied by the court, then the Receiving Party
7 may file the information in the public record unless otherwise instructed by the
8 court.

2. 0 13. FINAL DISPOSITION

1 After the final disposition of this Action, as defined in paragraph 4, within
2 60 days of a written request by the Designating Party, each Receiving Party must
3 return all Protected Material to the Producing Party or destroy such material. As
4 used in this subdivision, "all Protected Material" includes all copies, abstracts,
5 compilations, summaries, and any other format reproducing or capturing any of the
6 Protected Material. Whether the Protected Material is returned or destroyed, the
7 Receiving Party must submit a written certification to the Producing Party (and, if
8 not the same person or entity, to the Designating Party) by the 60 day deadline that

(1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4.

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1 14. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or monetary
3 sanctions.

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5 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

6 DATED: 7/31/18
7

8 /S/
9 Honorable Suzanne Segal
10 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ of _____
_____, declare under penalty of perjury that I have read in its entirety and
understand the Stipulated Protective Order that was issued by the United States
District Court for the Central District of California on _____ in the
case of M.J.L.H. v. City of Pasadena, Case No.: 2:18-CV-03249-JFW-SS.

I agree to comply with and to be bound by all the terms of this Stipulated
Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the terms
of this Stipulated Protective Order, even if such enforcement proceedings occur
after termination of this action. I hereby appoint _____ of _____
_____ as my California agent for
service of process in connection with this action or any proceedings related to
enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____